



Commonwealth
of Massachusetts

OCPF Online
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Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

July 31, 1998
AO-98-17

Francesca T. DeVellis, Treasurer
Terence McGinty Committee
45 Porter Avenue
Revere, MA 02151

Re: Use of part of supporter's residence for campaign office

Dear Ms. DeVellis:

This letter is in response to your July 27, 1998 request for an advisory opinion regarding the appropriate manner to report of the use of basement space provided to the Terence McGinty Committee ("Committee") by a supporter.

You have stated that the Committee uses a small portion of Mr. Wallace Sherwood's home in Cambridge as a campaign office. You do not believe Mr. Sherwood has leased the space to other candidates or political committees. He provides the Committee with the space because he is a supporter. He continues to reside in the home notwithstanding your use of space in the basement. He has provided the Committee with a key for the basement, and the Committee's use is limited to the basement space.

The basement is used for Committee meetings, computer work, making signs and other such campaign activities. You plan to continue to use the space until the election is over, and would like to ensure that you are reporting the use of the space correctly in accordance with the campaign finance law.

Question

Should the use of the space be reported as an in-kind contribution from the person who owns the home, or is it a "personal service?"

Answer

The use of the basement office space does not appear to involve the receipt of an in-kind contribution and therefore does not need to be reported. Mr. Sherwood is rendering a personal service to the Committee, and making associated incidental expenditures.

Discussion

Generally, the campaign finance law, M.G.L. c. 55, provides that a person who provides something of value to a political committee and who does not receive fair market value for the goods or services provided, has made an "in-kind" contribution. See M.G.L. c. 55, § 1 and 970 CMR 2.07(3). **Personal services and the incidental expenses incurred in providing such services, however, are not contributions.** Section 1 of chapter 55 defines "contribution," in relevant part, as follows:

. . . a contribution of money or anything of value to an individual [or] candidate . . . but [this definition] shall not include the rendering of services by speakers, editors, writers, poll watchers, poll checkers or others, nor the payment by those rendering such services of such personal expenses as may be incidental thereto . . .

Under the circumstances that you have described, it is my opinion that Mr. Sherwood's provision of space to the Committee constitutes the "rendering of services . . . by others," i.e. a personal service, for purposes of the campaign finance law. The payment of "personal expenses" made by Mr. Sherwood in connection with the Committee's use of the basement space such as additional utility or maintenance costs, therefore, would be "incidental" to the personal service rendered.

The provision of these services and the associated incidental expenses, at least where the space is in a supporter's residence and the owner of the residence shares occupancy with the committee, are appropriately considered "personal services" and incidental expenses associated with such personal services, rather than "in-kind contributions." Providing the space in Mr. Sherwood's basement is similar to the rendering of services by others who provide personal services to support a campaign.

In different circumstances, however, the office might conclude that the provision of similar space would involve the making of an in-kind contribution. For example, if the space is regularly rented or is provided by a business entity, an in-kind contribution might be involved. In addition, if a homeowner were to move out during the campaign and give the exclusive use of the home to a committee, or if the homeowner were to install and pay for a phone bank, an in-kind contribution would be involved absent payment by the committee.

This opinion is issued solely within the context of the campaign finance law and is provided based on representations in your letter and telephone conversations with this office's staff. Please contact if you have further questions.

Sincerely,

A handwritten signature in black ink, reading "Michael J. Sullivan" with a long horizontal flourish extending to the right.

Michael J. Sullivan
Director